

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00061  
**Petitioners:** Michael F. & Linda E. Poremba  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009091101840008  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on December 22, 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) made a determination and notified the Petitioners on March 26, 2004.
2. The Petitioners filed Form 139L petitions on April 13, 2004.
3. The Board issued a notice of hearing to the parties dated July 20, 2004.
4. A hearing was held on August 26, 2004, in Crown Point, Indiana before Special Master Alyson Kunack.

### Facts

5. The subject property is a single-family residence located at 9042 Henry Street, Dyer.
6. The Special Master did not conduct an on-site visit of the property.
7. The Assessed Value of the subject property as determined by the DLGF:  
Land \$53,700 Improvements \$ 173,800
8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
9. Persons sworn in at hearing:  
  
For Petitioners: Michael Poremba, Petitioner  
  
For Respondent: Larry Vales, CLT

## **Issue**

12. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) The land value does not take into account the results of a 1990 appeal that reduced the assessed value of the land.
  - b) The land has a large pipeline easement that is not properly recorded on the county's records. The assessment was based on an easement for an inactive pipeline rather than the active pipeline, which is closer to the house.
13. Summary of Respondent's contentions:
- a) After looking at the Petitioners' evidence and listening to the Petitioners' testimony the Respondent recommended taking 25% off of the land value for the pipeline easement.
  - b) The Petitioners are receiving a 10% influence factor for excess frontage. When the 25% influence factor for the pipeline easement is added the Petitioners land will have a total influence factor of 35%.

## **Record**

14. The official record for this matter is made up of the following:
- a) The Petition, and all subsequent submissions by either party.
  - b) The tape recording of the hearing labeled Lake Co. #719.
  - c) Exhibits:
    - Petitioner Exhibit 1: Letter from Phillips Pipeline Co. concerning the easement
    - Petitioner Exhibit 2: 1990 appeal (Form 130)
    - Petitioner Exhibit 3: Supporting documentation from 1990 appeal
    - Petitioner Exhibit 4: Copy of survey map showing pipeline easements
    - Petitioner Exhibit 5: Real estate assessment and transfer record
  
    - Respondent Exhibit 1: Form 139L
    - Respondent Exhibit 2: Property record card (PRC)
    - Respondent Exhibit 3: Subject property photograph
    - Respondent Exhibit 4: Top 20 sales comparables and statistics sheet
    - Respondent Exhibit 5: Photograph and PRC of purportedly comparable property
    - Respondent Exhibit 6: Photograph and PRC of purportedly comparable property
    - Respondent Exhibit 7: Photograph and PRC of purportedly comparable property

Board Exhibit A: Form 139 L  
Board Exhibit B: Notice of Hearing  
Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

### **Analysis**

15. The most applicable laws are:
- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
  - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
16. The Petitioner provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Respondent recommended making adjustments to the assessment after reviewing the Petitioners’ testimony and evidence.
  - b) The Petitioners agreed with the recommendation made by the Respondent.
  - c) The recommended and agreed upon adjustment is to include a negative 25% influence factor to the land for the pipeline easement. The Petitioners already receive a negative 10% influence factor for excess frontage. The total influence factor to the Petitioners’ land will be negative 35%.

### **Conclusion**

17. Based on the recommendation and agreement of the Parties, the Board finds in favor of the Petitioner.

**Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

**IMPORTANT NOTICE**

**- APPEAL RIGHTS -**

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**